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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

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9 TARRELL M. SMITH,
10 Petitioner,
11 vs.
12 BRIAN E. WILLIAMS, et al.,
13 Respondents.

Case No. 2:15-cv-01762-RFB-NJK
ORDER

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15 Petitioner has filed a motion to voluntarily dismiss petition for writ of habeas corpus (ECF No.
16). Respondents have not responded to the motion. Petitioner understands that the dismissal would
17 be without prejudice.¹ Good cause appearing;

18 IT IS THEREFORE ORDERED that this action is **DISMISSED** with prejudice. The clerk of
19 the court shall enter judgment accordingly and close this action.

20 IT IS FURTHER ORDERED that the court will not issue a certificate of appealability.
21 DATED: July 13, 2017.



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23 RICHARD F. BOULWARE, II
24 United States District Judge

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26 ¹ Technically, under Rule 41(a) of the Federal Rules of Civil Procedure, a dismissal would be without
27 prejudice unless the order states otherwise. However, this action itself has been open for more than a
28 year, and the one-year period of limitation of 28 U.S.C. § 2244(d)(1) was not tolled while the action was
open. Even if the court were to dismiss the action “without prejudice,” any subsequent petition would
be time-barred.